# State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

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| **IN RE:** | ) | |
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| **AMY M. VOLZ,** | ) | **Case No. 131202609C** |
| | ) | |
| **Applicant.** | ) | |

## ORDER REFUSING TO ISSUE AN INSURANCE PRODUCER LICENSE

On February 28, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Amy M. Volz. After reviewing the Petition and the Investigative Report, the Director issues the following findings of fact, conclusions of law, and order:

## FINDINGS OF FACT

1. Amy M. Volz, ("Volz") is a Missouri resident with a residential address of 917 Robbie Drive, Foristell, Missouri 63348.

2. The Department of Insurance, Financial Institutions and Professional Registration ("Department") received Volz's completed Application for a resident insurance producer license ("Application") on September 12, 2013.

3. Background Question No. 1 of the Application asks the following:

   Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?

4. Volz answered "Yes" in response to Background Question No. 1.

5. Volz also submitted an attachment to further explain her response to Background Question No. 1. In her attachment, Volz disclosed that she had been convicted of Possession of a Controlled Substance in 2000.

6. During its investigation, the Consumer Affairs Division ("Division") discovered the following:

   a. On or about July 28, 2000 in the Circuit Court of Lincoln County, Missouri, Volz pled guilty to the Class C Felony of Possession of a Controlled Substance Except 35 Grams or Less of Marijuana. On or about August 6, 2002, the court sentenced Volz to five (5) years' incarceration with the Department of Corrections, but suspended the execution of sentence, and placed Volz on supervised probation for five (5) years. On or about January 16, 2007, Volz violated her probation and probation was revoked. On or about February 22, 2007, Volz was sentenced to 120 days shock incarceration. After completing her incarceration, Volz was placed on supervised probation for five (5) years. On or about July 23, 2009, Volz completed her probation. *State v. Amy M. Volz*, Lincoln Co. Cir. Ct., Case No. 450R10000428-01.

7. After reviewing Volz's Application and her criminal record, Special Investigator Dennis A. Fitzpatrick ("Special Investigator Fitzpatrick") sent a letter to Volz dated September 17, 2013. Said letter requested additional documentation and information about the felony conviction and probation violation. The letter further requested a response by October 9, 2013, and warned Volz that a failure to respond could result in refusal of her insurance producer license.

8. The United States Postal Service did not return the September 17, 2013 letter to the Division, and therefore it is presumed delivered.

9. Volz failed to provide a written response to the Division's September 17, 2013 letter by October 9, 2013, and failed to demonstrate a reasonable justification for the delay.

10. Special Investigator Fitzpatrick sent a second letter to Volz dated October 16, 2013 that, once again, requested information and documentation about the felony conviction and probation violation. Said letter also stated that without further evidence from Volz that she was trying to comply with the Division's requests for information, her license would be refused. The letter further requested a response by November 6, 2013.

11. The United States Postal Service did not return the October 16, 2013 letter to the Division, and therefore it is presumed delivered.

12. Volz failed to provide a written response to the Division's October 16, 2013 letter by November 6, 2013, and failed to demonstrate a reasonable justification for the delay.

13. Volz contacted the Department via email on October 14, 2013. Special Investigator Fitzpatrick responded by email on October 17, 2013 requesting that Volz respond to

his attached letters. Attached to this email were copies of the September 17, 2013 letter and the October 16, 2013 letter.

14. On December 19, 2013, Special Investigator Fitzpatrick spoke with Volz on the phone. Volz verbally and orally agreed to provide an explanation of her criminal history.

15. Special Investigator Fitzpatrick sent a letter to Volz dated December 23, 2013. Said letter confirmed the telephone conversation and the verbal and oral agreement that occurred December 19, 2013. The letter requested additional documentation and information about Volz's felony conviction and probation violation. The letter further requested a response by January 13, 2014, and warned Volz that a failure to respond could result in refusal of her insurance producer license.

16. The United States Postal Service did not return the December 23, 2013 letter to the Division, and therefore it is presumed delivered.

17. Volz failed to provide a written response to the Division's December 23, 2013 letter by January 13, 2014, and failed to demonstrate a reasonable justification for the delay.

## CONCLUSIONS OF LAW

18. Section 375.141 RSMo (Supp. 2013)[1] provides, in part:

> 1. The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:
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> * * *
>
> (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;
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> * * *
>
> (6) Having been convicted of a felony or crime involving moral turpitude[.]

[1] All statutory references are to RSMo (2000) as updated by RSMo (Supp. 2013) unless otherwise noted.

19. Title 20 CSR 100-4.100(2)(A) Required Response to Inquiries by the Consumer Affairs Division, provides:

> Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

20. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. 2000) (internal citations omitted).

21. The principal purpose of § 375.141 is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984).

22. The Director may refuse to issue an insurance producer license to Volz under § 375.141.1(2) because Volz failed to adequately respond to three (3) separate inquiries from the Division and failed to provide a reasonable justification for the delay, thereby violating 20 CSR 100-4.100(2)(A), a department regulation.

23. Each failure to provide an adequate response and failure to provide a reasonable justification for the delay is a separate and sufficient cause for refusal under § 375.141.1(2).

24. The Director may refuse to issue an insurance producer license to Volz under § 375.141.1(6) because Volz has been convicted of a felony:

    a. *State v. Amy M. Volz,* Lincoln Co. Cir. Ct., Case No. 45R010000428-01 (Possession of a Controlled Substance Except 35 Grams or Less of Marijuana, a Class C Felony, in violation of § 195.202).

25. The Director has considered Volz's history and all of the circumstances surrounding Volz's Application.

26. In addition to her felony conviction and probation violation, Volz has demonstrated a disregard of the regulator from whom she seeks a license by her repeated failures to respond to the Division's inquiries. Therefore, granting Volz an insurance producer license would not be in the interest of the public.

27. Accordingly, the Director exercises his discretion and refuses to issue an insurance producer license to Volz.

28. This order is in the public interest.

## ORDER

**IT IS THEREFORE ORDERED** that the insurance producer license application of **Amy M. Volz** is hereby **REFUSED**.

**SO ORDERED.**

**WITNESS MY HAND THIS** 24th **DAY OF** FEBRUARY**, 2014.**

**JOHN M. HUFF**
**DIRECTOR**

## NOTICE

**TO: Applicant and any unnamed persons aggrieved by this Order:**

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

## CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of March, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required, at the following addresses:

Amy M. Volz
917 Robbie Drive
Foristell, Missouri 63348

Certified No. 1Z0R1SW84298569824

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